

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of ____, 2014:

Present

Vote

Donald E. Wiggins, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
George S. Hrichak

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-155-14 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY ZONING ORDINANCE, CHAPTER 24.1, YORK COUNTY CODE, TO ESTABLISH PERFORMANCE STANDARDS FOR AGRICULTURE AND AQUACULTURE USES AND TO CLARIFY VARIOUS OTHER SECTIONS

WHEREAS, the Board of Supervisors has sponsored Application No. ZT-155-14 after determining that amendments to the Zoning Ordinance should be considered as a consequence of changes to the Code of Virginia approved in the 2014 session of the General Assembly; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval of the proposed amendments with revisions; and

WHEREAS, the Board has conducted a duly advertised public hearing has given careful consideration to the public comments that have been received; and

WHEREAS, the Board has reviewed the information, findings and conclusions presented in the County Administrator's memorandum dated October 9, 2014, and the Planning Commission's discussion as recorded in its meeting minutes and has deter-

mined that for the reasons presented, and various other considerations, the proposed amendments should be approved as shown below;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2014, that Application No. ZT-155-14 be, and it is hereby, approved to amend the York County Zoning Ordinance, Chapter 24.1, York County Code, as set forth below:

ZONING ORDINANCE AMENDMENTS

Sec. 24.1-104. Definitions

Agriculture. The use of land for a bona fide agricultural operation involving the production for sale (but not the processing) of plants, animals, and agricultural products useful to man and including tilling of the soil, the raising of crops, horticulture, the keeping of agricultural animals and fowl, dairy and poultry operations, or any other similar and customary agricultural activity, but, for the purposes of this chapter not aquaculture, and including the customary accessory uses, among which may be a single-family detached residence, and accessory equipment ~~which are~~ normally associated with agricultural activities. Fruit, vegetables, eggs and honey are deemed agricultural products only prior to processing of any kind other than washing.

Aquaculture. The propagation, rearing, enhancement, and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water. Aquaculture also includes the land-based and pier-based aspects of aquaculture, including but not limited to shellfish aquaculture, conducted off-shore in marine waters, including but not limited to the docking of work-boats, the off-loading of seafood, the on-land storage and maintenance of associated cages, floats, equipment, supplies and other materials, and their transfer from land to boat or boat to land.

~~*Animal.* Any nonhuman vertebrate species except fish.~~

Home occupation. An accessory use of a dwelling unit or the property upon which it is located by the occupant of the dwelling for or with the intent of gainful employment involving the provision of goods or and services.

Workboat. A watercraft used in the conduct of or in conjunction with a commercial operation such as aquaculture, seafood harvesting for sale, or other waterborne commercial or industrial activity whether or not designed and built or modified specifically for that commercial purpose. ~~primarily in the business of harvesting seafood for sale.~~

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. In the case of an existing lawful nonconforming single-family detached residence located in a non-residential district, the normal and customary accessory uses listed below shall, unless otherwise indicated be deemed permitted as a matter of right, subject to all respective performance standards. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:

- (a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:
 - (1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.
 - (2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.
 - (3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:
 - a. Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.
 - b. In residential districts, dish antennae larger than twenty-four inches (24") in diameter shall be permitted in rear yards only. No part of a dish antenna shall be closer than five feet (5') to any lot line. Dish antennae larger than twenty-four inches (24") in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.
 - c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide

Building Code. No dish antenna may be installed on a portable or movable base.

- d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.
- (aa) Accessory apartments in the RC, RR, R33, R20 and R13 Districts, subject to the ~~district location and~~ supplementary requirements set forth in ~~Section No. 24.1-306, Table of Land Uses, and~~ Section No. 24.1-407, Standards for Accessory Apartments, ~~respectively~~, of this chapter. Accessory apartments shall not be permitted in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.
 - (b) Barns or other structures that are customarily incidental to a legally established and permitted agricultural use or when used in conjunction with the keeping of horses or other livestock as an accessory use ~~horsekeeping~~ as permitted in the residential districts.
 - (c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall mean no more than sixteen (16) consecutive days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair

of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

- (d) Child's playhouses, without plumbing.
- (dd) Home gardens, orchards, vineyards, riparian shellfish gardening when in accordance with the terms of Virginia Administrative Code section 4VAC20-336 General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities, and similar pursuits when maintained and cared for by the occupants of the property without the assistance or employment of and not non-resident employees. when the produce of such activities is for household consumption purposes and not for commercial marketing purposes. Nothing in this subsection shall be construed to prohibit the sharing of such produce with friends or neighbors or the sale of the produce, either on or off the premises. When sales are conducted on the property the provisions of subsection (k) below shall be observed. Nothing in this section shall be construed to limit the amount of land area on a residential property that is planted and cultivated for vegetable crops, orchards or vineyards. and others in a non-commercial manner.
- (e) Raising and keeping of household pets which are housed within the principal structure.
- (f) Doghouses, pens, hutches, or similar structures or enclosures, that are not within the principal structure and which are intended for the housing and confinement of household pets. The keeping of more than four (4) canines or felines over the age of six (6) months in such a structure or enclosure shall be deemed a private kennel and shall be permitted only in accordance with the location and supplementary requirements set forth in Section No. 24.1-306, Table of Land Uses, and Section No. 24.1-417, Standards for Private Kennels, respectively, of this chapter. Special Use Permit approval shall be required for any private kennel proposed in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.
- (ff) Keeping of horses or other livestock Horsekeeping for personal but not commercial purposes, when in accordance with the Permitting and shall be permitted as a matter of right in the RC and RR Districts and by Special Use Permit in the R33, R20 and R13 Districts, subject in both circumstances to the Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414 of this Chapter. Special Use Permit approval shall be required for any horsekeeping or livestock keeping proposed in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.
- (g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling,

school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') of the hive. Nothing in this subsection shall be construed to prohibit the sharing of honey with friends or its sale, either on or off the premises.

- (gg) Backyard chicken-keeping for personal but not commercial purposes shall be permitted as a matter of right in the RC, RR, R33, R20, R13 and WCI Districts, subject in both circumstances to the ; when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414.1 of this Chapter. Nothing in this subsection shall be construed to prohibit the sharing of eggs with friends or neighbors or sale of eggs, either on or off the premises.

- (k) On-premises rRoadside sales of produce provided that: operations shall be limited to no more than ninety (90) days per year; shall be and solely for to the sale of produce grown or raised on the premises; shall be limited to one temporary on-premises free-standing sign not exceeding six (6) square feet in area; and, shall be allowed only on property where the parking demand can be met on the subject site (i.e., no on-street customer parking) provide off street parking for not less than three (3) vehicles.

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

- (d) Docking workboats and off-loading seafood as a home occupation in RR and RC districts.
- (1) Such uses may be authorized only on property which is classified RC or RR. The docking of workboats, off-loading of seafood, and the conduct of a waterman's operation shall be limited to occupants of the premises who are engaged in commercial fishing or the harvesting of seafood from open waters using traditional methods such as lines, nets, crab-pots, tonging or dredging. Uses which involve aquaculture methodologies including but not limited to the propagation, rearing, enhancement and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments pursuant to a license for on-bottom shellfish aquaculture from the Virginia Marine Resources Commission shall not be eligible for consideration under these provisions. Such uses shall, for the purposes of this chapter, be considered to be aquaculture and shall be permitted in accordance with the listings set forth in section 24.1-306, Ta-

ble of Land Uses, of this chapter.

The above provisions notwithstanding, Special Use Permit authorization shall not be required for traditional waterman activities (commercial fishing, harvesting seafood from open water using traditional methods) conducted in a manner and from property complying with the terms applicable to commercial aquaculture set forth in section 24.1-414.3..

- (2) No admission, dockage, or wharfage fees shall be charged.
- (3) On-premises wholesale or retail sale of seafood shall be prohibited.
- (4) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty feet (20') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area supplemented, if determined necessary by the zoning administrator or the board at the time of permit approval, by masonry or wooden fencing material. In its approval of a special use permit, the board may limit outdoor storage to less than one thousand (1,000) square feet or may require a setback greater than twenty feet (20') if deemed necessary based on the characteristics of the subject site or its surroundings.
- (5) Repair of workboats shall be limited to routine maintenance, which may include:
 - a. minor tune-ups;
 - b. change of oil and filters;
 - c. washdown and drainage of workboats;
 - d. winterizing (draining lines, etc.);
 - e. other customary routine repairs or maintenance.
- (6) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.
- (7) The workboats and seafood unloading operations shall be conducted in such a manner as to prevent potentially offensive odors from being produced. No overnight storage of seafood waste shall be permitted on the property.

- (8) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.
- (9) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house. The "rafting" of boats shall not be permitted.
- (10) No heavy trucks shall be permitted to operate from the property.
- (11) Any demand for parking generated by the conduct of such use shall be accommodated off the street.
- (12) ~~No bulk fuel storage in excess of twenty five (25) gallons for dispensing into a workboat shall be permitted.~~ The storage and utilization of toxic substances shall be limited to types and quantities that would customarily be utilized or stored for residential use. Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.
- (13) The board shall, on a case-by-case basis, review and impose such other conditions as it deems necessary and appropriate to assure that the use will be compatible with, and will not adversely impact, adjoining properties and the environment of the area. Such conditions and restrictions may include:
 - a. hours of operation;
 - b. number of workboats permitted to use the private residential pier or dock;
 - c. a requirement to prepare a water quality impact assessment;
 - d. additional screening or landscaping requirements for outdoor storage areas and equipment.

Sec. 24.1-301. Interpretation of table of uses.

- (a) *Coding system.* The uses permitted in each zoning district created by this chapter are indicated in the table in section 24.1-306 according to the coding system set forth below:

CODE	INTERPRETATION
P	Permitted as a matter of right
A	Administratively issued permit required

S	Special use permit issued by the board required in accordance with standards established in article I
Blank	Use not permitted

- (b) *Categorization system.* Uses listed in the table in section 24.1-306 are organized according to the categories set forth below:

CATEGORY	USE
1	Residential Uses
2	Agriculture, Animal Keeping and Related Uses
3	Home Occupations <u>(RESERVED)</u>
4	Community Uses
5	Educational Uses
6	Institutional Uses
7	Public and Semipublic Uses
8	Temporary Uses
9	Recreation and Amusement Uses
10	Commercial and Retail Uses
11	Business and Professional Service Uses
12	Motor Vehicle and Transportation Related Uses
13	Shopping Centers and Business Parks
14	Wholesaling and Warehousing
15	Limited Industrial Uses
16	General Industrial Uses
17	Utilities and Related Uses

- (d) *Districts.* The following zoning districts are established:

District	Definition	Primary Permitted Use
RC	Resource conservation	Very low density single-family detached, agriculture, aquaculture , military, conservation, environmentally sensitive areas
RR	Rural residential	Low density single-family detached, agriculture , aquaculture farming
R33	Low density single-family residential	Low density single-family, subdivision settings
R20	Medium density single-family residential	Medium density single-family detached
R13	High density single-family residential	High density single-family detached
R7	Manufactured home subdivision	Manufactured homes within a manufactured home subdivision
RMF	Multi-family residential	Duplexes, townhouses, multiplexes, apartments, and condominiums
YVA	Yorktown village activity	Residential and nonresidential uses within historic Yorktown
NB	Neighborhood business	Retail uses and services for nearby residential areas
LB	Limited business	Commercial retail uses, businesses and professional services and offices having a predominant "9 to 5" character
GB	General business	Broad range of retail commercial uses, shopping centers, fast food establishments, business and professional services, and automotive services

landscape contracting storage & equipment	S	S								S		P	P	P
5. Private Kennel accessory to a residence RESERVED	P	P	S	S	S					S		S		
6. Backyard chicken-keeping accessory to a single-family detached dwelling RESERVED	P	P	P	P	P					P				
7. Animal Hospital, Vet Clinic, Commercial Kennel														
a) Without Outside Runs	S	S					S		S	P		P	P	P
b) With Outside Runs	S	S							S			S	P	P
8. Commercial Stables		S											S	S
9. Commercial Orchard or Vineyard	P	P		S	S					-S		P	P	P
10. Forestry	P	P		S	S	S	S	S	S	S	S	S	P-S	P-S
11. Farmer's Market	S							P		P		P	P	P

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT USES	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 3 — RESERVED HOME OCCUPATIONS													
1. Activities with No On-Premises Retail —Sales, Personal Services or Customer Contact	P	-P	P	P	P	P	P				P			
2. Activities with Limited On-Premises —Retail Sales, —Personal Services or —Customer Contact	S	S	S	S	S	S	S				-P			
3. Small Contracting Business	S	S									S			

ARTICLE IV. PERFORMANCE STANDARDS FOR USES

Sec. 24.1-400. Purpose and intent.

It is the purpose of this article to establish performance standards for the various categories of land use allowed in the county. The purpose of such performance standards is to ensure compatibility with surrounding uses, conformity with the adopted comprehensive plan, and the protection of the public interest and welfare. Henceforth, all proposed developments and uses of land shall be designed and constructed in accordance with the applicable portions of these standards based on the category of the use.

DIVISION 2. AGRICULTURE, ANIMAL KEEPING AND RELATED USES (CATEGORY 2)

Sec. 24.1-414. Standards for horsekeeping or other livestock and commercial stables.

- (a) The minimum area of any parcel proposed for the keeping of horses or other livestock, ~~whether~~ accessory and incidental to a single-family detached residence, ~~or for residential use or as~~ a commercial horse stable, shall be two (2) us-

able acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:

- the area occupied by any residential structures;
 - the area of required front or side yards associated with the residence;
 - any area with an elevation less than two (2) feet above mean sea level;
 - the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;
 - ~~and any areas unsuitable for keeping of horses by reason of topography, drainage conditions, or the extent of tree or other vegetation cover shall not be included in the computation.~~
- (b) The maximum number of horses or other livestock permitted as an accessory and incidental use on a residential property shall be one (1) per each usable acre of land as defined in subsection (a) above. In the case of commercial stables, the maximum number of horses permitted shall be two (2) per usable acre of land or such fewer number as the Board of Supervisors ~~zoning administrator~~ may deem appropriate given the characteristics of the subject property and the surrounding area.
- (c) Horses or other livestock shall not be stabled, pastured, or otherwise kept within one thousand feet (1,000') of a drinking water reservoir unless it can be proven to the satisfaction of the health department and the zoning administrator that any runoff will be away from the reservoir and that public health will not be negatively impacted. In such cases, a two hundred foot (200') buffer must be maintained. This shall not be interpreted to preclude the riding of horses or establishment of bridle trails closer than the specified distance provided that the health department and owner of the reservoir approve.

The owner shall provide the county with a soil conservation and management plan prepared by a qualified professional which shall include:

- (1) a nutrient management plan for the proper storage and application of animal waste;
- (2) an erosion control plan to ensure the integrity of the slopes; and
- (3) a best management practices program for controlling and treating surface runoff.

In determining consistency with this condition, the zoning administrator may require that the above plans be reviewed and approved by the Virginia Cooperative Extension Service and the U.S. Department of Agriculture - Soil Conservation Service.

- (d) The keeping of horses or other livestock as an accessory use on residential property shall be solely for the recreational purposes of the family living on the premises. Boarding of horses or other livestock owned by others is prohibited.
- (e) All horses and other livestock shall be kept in pens or other enclosures designed and maintained for secure confinement.
- (f) The Board of Supervisors zoning administrator shall find, prior to approval, that such use will not be detrimental to the character of the neighborhood and may impose such additional conditions, including special requirements for setbacks of pastures and requirements for drainage control, as deemed necessary to promote the public interest and welfare and ensure, that such use will not be detrimental to the character of the neighborhood.
- (g) Such uses shall comply in all respects with the standards and requirements established in chapter 4, article II, Livestock, York County Code.

Sec. 24.1-414.1 Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens as an accessory activity on residentially-zoned and occupied property in the R33, R20, R13 and WCI Districts, and as an accessory activity on properties less than two (2) usable acres in area in the RC and RR Districts, shall be ~~solely for purposes of household consumption and shall be~~ permitted ~~only~~ in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

- (a) Chickens allowed pursuant to this section shall be kept and raised primarily only for the benefit and enjoyment of the occupants of the property. However, nothing in this section shall be construed to prohibit the sharing of eggs with friends or neighbors or the sale of eggs, either on or off the premises. domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1 283(b) of this chapter.
- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.

- (e) Pens, coops, or cages shall not be located in any front or side yard area.
- (f) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (g) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (h) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (i) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (j) In the case of proposals for accessory backyard chicken-keeping in the RC, RR, R33, R20, R13 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a \$15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.
- (k) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements.

- (a) Notwithstanding the minimum area requirements stated elsewhere in this chapter for any zoning classification, the minimum area of any parcel proposed for an agricultural use, as defined in section 24.1-1-104, shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:
- the area occupied by any residential structure;
 - the area of required front or side yards associated with the residence;
 - any area with an elevation less than two (2) feet above mean sea level;
 - the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;
- (b) Any open-air pen, fenced area, or other confinement area for livestock in which the available space is less than 200 square feet per animal shall be located at least 100 feet from the property line of any adjoining parcel on which a residential dwelling unit exists, is under construction, or would be permitted pursuant to its existing zoning classification. In no event shall any pen or confinement area, regardless of its size/area and the number of animals confined, be located less than 25 feet from any perimeter property line. In addition, the following standards shall be observed:
- i. Any structure or fenced area used to confine swine shall be located at least five hundred (500) feet from any dwelling not located on the premises and at least 300 feet from any property line.
 - ii. Any structure or pen used for raising more than 16 chickens shall be located at least 200 feet from any dwelling not located on the premises and at least 100 feet from any property line.
- (c) Fencing around livestock pasture areas shall be set back at least 25 feet from any perimeter property line that abuts a parcel less than two (2) acres in area.
- (d) All such uses shall comply with all applicable provisions of Chapter 4, Article II. Livestock, and Chapter 23.2, Chesapeake Bay Preservation Areas, of the York County Code.
- (e) All such operations shall be conducted in accordance with all existing and applicable best management practices approved by the Virginia Soil and Water Conservation Board with the objective of preventing pollution of, or change in the condition of, the waters of any stream or other water body or which results in drainage or stormwater discharges of a quantity or quality detrimental to adjoining properties.
- (f) Notwithstanding the foregoing requirements, horsekeeping accessory to a resi-

dential use, commercial stables, and domestic chicken-keeping accessory to a residential use, shall be permitted pursuant to the standards set forth in Section Nos. 24.1-414 and 24.1-414.1 of this chapter.

Sec. 24.1-414.3 Standards for Commercial Aquaculture and Associated Docking of Workboats and Off-Loading Seafood

When proposed to be established as the principal use of a property in non-commercial zoning districts where commercial aquaculture and the associated docking of workboats and off-loading seafood is permitted pursuant to the listings in Section 24.1-306 – Table of Land Uses, the following standards and requirements shall apply:

- (1) The activities such as, but not limited to: maintenance and storage of cages, floats, or other equipment; transfer from land to boat or boat to land of cages, floats, equipment or seafood; and, packaging and shipment of product; shall be limited to the aquaculture products generated on the subject property or from shellfish grounds licensed to the owner of the property for aquaculture operations by the Virginia Marine Resources Commission (VMRC).
- (2) Notwithstanding the minimum area requirements stated elsewhere in this chapter for any zoning classification, the minimum area of any parcel proposed to be used for commercial aquaculture shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:
 - the area occupied by any residential structure;
 - the area of required front or side yards associated with the residence;
 - any area with an elevation less than two (2) feet above mean sea level;
 - the area encompassed by a 25-foot wide buffer on the landward/upland side of the 2-foot contour;
- (3) Any parcel used for this purpose shall have a minimum width of 100 feet at the shoreline, measured between the two points where the side lot lines intersect the mean low water line.
- (4) The docking of workboats and loading or off-loading activities associated with an aquaculture operation shall not be permitted within 100 feet of any residential structure located on an abutting property owned or occupied by a person other than the owner of the property on which the aquaculture operation is being conducted. In no event shall any workboat docking or aquaculture activity be conducted within 25 feet of any abutting property. The number of workboats used in the operation and docked at the property's pier shall not exceed the capacity of the pier to accommodate them without need for rafting.

- (5) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty-five feet (25 ') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area supplemented, if determined necessary by the zoning administrator, by masonry or wooden fencing material. A 25-foot wide landscaped buffer strip, landscaped in accordance with the Type 25 landscaping requirements set forth in Section 24.1-243 of the Zoning Ordinance shall be provided along any property line that abuts a property on which a residence exists or could be constructed.
- (6) Sludge, shells, or any other waste materials generated in the conduct of the aquaculture operation shall not be stored, stockpiled, or permitted to accumulate within twenty-five feet (25') of any property line, within 100 feet of any residential structure located on an adjoining parcel, or, regardless of location, in any manner that is not consistent with best management practices for minimizing odor and the attraction of flies or other pests.
- (7) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.
- (8) No overnight outdoor storage of seafood waste shall be permitted on the property. The term "seafood waste" does not include clean oyster shells.
- (9) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.
- (10) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house,
- (11) Any demand for parking, including vehicles being loaded or unloaded, generated by the conduct of such use shall be accommodated off the street.
- (12) Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.
- (13) All Chesapeake Bay Preservation Area requirements, including specifically the preparation of a water quality impact assessment, shall be followed.
- (14) All aquaculture operations shall be conducted in accordance with all existing and applicable best management practices and shall be operated in a manner that prevents pollution of, or change in the condition of, the waters of any stream or other water body or which results in drainage or stormwater discharges of a quantity or quality detrimental to adjoining properties, or in violation of any federal, state or local environmental laws.

~~(15) Access to the any parcel used for this purpose shall have direct access to a public road and shall not require access be permitted via a private driveway that first crosses and is shared by another property or properties through valid easement rights unless the owner(s) of those easement rights have evidenced their approval in a written statement provided to the Zoning Administrator serving other properties not owned by the home occupation proprietor.~~

~~(16) Repair of workboats shall be limited to routine maintenance, which may include:~~

- ~~(a) minor tune-ups~~
- ~~(b) change of oil and filters~~
- ~~(c) washdown and drainage of workboats~~
- ~~(d) winterizing (draining lines, etc.)~~
- ~~(e) other customary routine repairs or maintenance~~

~~Bulk fuel storage in excess of twenty five (25) gallons for use in workboats shall be prohibited.~~

~~(17) All activity shall be conducted in such a manner as to prevent potentially offensive odors from being produced.~~

~~(18) No heavy trucks having a gross carrying weight rating of more than one (1) ton shall be permitted to operate from the property.~~

~~(19) Activities and operations associated with the use shall be limited to the hours between 6:00 am and 8:00 pm, Monday through Saturday.~~

~~(20) Activities and equipment shall be operated in accordance with Best Management Practices so as to minimize noise impacts of trucks, forklifts, or other equipment and shall be minimized to prevent it from being audible on adjacent or nearby residential property at levels greater than typical for a residential property.~~
